

JOHN L. BURRIS, Esq./ State Bar #69888
BENJAMIN NISENBAUM, Esq./State Bar #222173
LAW OFFICES OF JOHN L. BURRIS
Airport Corporate Centre
7677 Oakport Street, Suite 1120
Oakland, California 94621
Telephone: (510) 839-5200 Facsimile: (510) 839-3882

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN ESPINOSA, individually and as
personal representative of the Estate of decedent
ASA SULLIVAN; A.S., by and through his
Guardian ad Litem, NICOLE GUERRA;

Case No. C 06 04686 JSW

**STIPULATION AND ~~(PROPOSED)~~ ORDER
CONTINUING TRIAL DATE**

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation; et al.,

Final Pre-Trial Conference Date: February 10,
2014

Time: 2:00 p.m.
Courtroom 11, 19th Floor

Trial Date: March 10, 2014

Defendants.

Honorable Jeffrey S. White

STIPULATION

WHEREAS, the Final Pre-Trial Conference in this matter was previously set for November 4,
2013, and the trial was set to begin on December 2, 2013.

WHEREAS, the Court continued both the Final Pre-Trial Conference and Trial date on its
own motion on October 30, 2013, respectively to February 10, 2014 and March 10, 2014.

WHEREAS, Plaintiffs' counsel is already set for a lengthy (4 week) trial starting on March
25, 2014, in the Eastern District of California Federal Court case *Duenez, et al, v. City of Manteca, et
al.*, case no. 2:11-cv-01820 LKK-KJN. Both of Plaintiffs' instant trial counsel, Benjamin Nisenbaum

1 and John Burris are also the trial counsel in the *Duenez* matter. Judge Lawrence Karlton set the
 2 March 25, 2014 trial date in *Duenez* on March 18, 2013, continuing it from an earlier date set of
 3 January 22, 2014. Plaintiffs' counsel does not anticipate Judge Karlton would react favorably to any
 4 further continuance of that trial.
 5

6 WHEREAS, Plaintiffs' trial counsel has a heavy trial calendar in 2014, including trials set as
 7 follows, with the length and assessment of likelihood of the trial going forward. All cases are in
 8 Federal Court, either in the Northern District or Eastern District of California:
 9

10 **Feb. 18th:** Abston v. City of Merced 1:09-cv-00511-MJS (E.D. Cal.) (2-3 weeks, already has
 11 been through interlocutory appeal and subsequent settlement conference, likely to go).

12 **Feb. 24th:** Killian v. City of Monterey 5:12-cv-05418-PSG (N.D. Cal.) (1 week or so, cross
 13 motions for summary judgment to be heard on Nov. 19th, likely to resolve after MSJ ruling).
 14

15 **March 25th:** Duenez v. City of Manteca 2:11-cv-01820-LKK-KJN (E.D. Cal.) (4 weeks,
 16 cross-motions for MSJ heard on Nov. 4th, with strong indication that neither side will win their
 17 motion, settlement appears unlikely).

18 **May 5th:** Bryant v. Oakland Housing Authority 3:12-cv-02102-EMC (N.D. Cal.) (1 to 2
 19 weeks trial, motions for summary judgment have not been filed yet, but resolution is likely).
 20

21 **May 8th:** Blueford v. City of Oakland 3:12-cv-03791-WHO (N.D. Cal.) (2-3 weeks trial,
 22 MSJ's not filed yet, uncertain whether it will go)

23 **June 9th:** Earl Brown v. City and County of San Francisco et al 3:11-cv-02162-LB (N.D.
 24 Cal.) (2 weeks trial, very likely to go)

25 **June 9th:** (John Burris' trial) Bryson, Jr., et al. v. BARTD, et al. 3:09-cv-04835-EMC (N.D.
 26 Cal.) (almost certain to go. This case is set to last through July 25th. This is the companion case to
 27
 28

Oscar Grant, the case for the other men detained on the platform, has already been through interlocutory appeals).

September 5th: Pervoe v. County of Alameda 3:12-cv-04286-JST (N.D. Cal.) (too early to tell yet if it will go, the plaintiff died and put the case in limbo for awhile. Plaintiffs' counsel will try to move this case to accommodate a September trial date in the instant-matter should the case not resolve).

September 29th: Ramirez v. City and County of San Francisco 4:12-cv-06383-DMR (N.D. Cal.) (a short trial, can be moved if necessary).

October 27th: Harvey v. City of Antioch 3:13-cv-01610-RS Consolidated Case (N.D. Cal.) (2-3 week trial, likely to go, but too early to tell for sure).

December 1st: Garrett v. City of Vallejo 2:05-cv-00387-MCE-DAD (E.D. Cal.) (2 week trial, though settlement is very likely.)

WHEREAS, Defendants' position is as follows: (1) the current March 10, 2014 trial date is acceptable to Defendants; (2) Defendants are not available for trial in August 2014 due to counsel's planned vacation; (3) trial dates of September 2, 8, or 15, 2014 would work for Defendants; however, starting trial after September 15 would not work for Defendants because one of the defendants is not available for trial October 22-November 18, 2014 due to a planned vacation.

1 WHEREFORE, the parties respectfully request that the Court continue the re-set trial date
2 from March 10, 2014 to the next mutually available trial date for counsel, which should be September
3 2, 2014.
4

5 IT IS SO STIPULATED.
6

7 Dated: November 14, 2013
8

Respectfully submitted,

LAW OFFICES OF JOHN L. BURRIS

9
10 /s/ Benjamin Nisenbaum

Benjamin Nisenbaum

Attorney for Plaintiffs

11
12 Dated: November 14, 2013

San Francisco City Attorney's Office

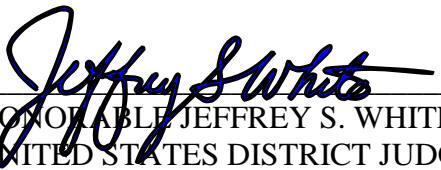
13
14 /s/

Peter J. Keith, Deputy City Attorney
Attorney for Defendants

15
16
17 **~~(PROPOSED)~~ ORDER**
18

19 GOOD CAUSE SHOWN, the Court hereby grants the parties' stipulation to continue the trial
20
21 date of this action to September ⁸2, 2014.
22

23 Dated: December 2, 2013

24 
HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE
25
26
27
28